

VZCZCXRO5895
RR RUEHCHI RUEHDT RUEHNN
DE RUEHHM #0889/01 2751028
ZNY CCCCC ZZH
R 011028Z OCT 08
FM AMCONSUL HO CHI MINH CITY
TO RUEHC/SECSTATE WASHDC 4970
INFO RUEHHI/AMEMBASSY HANOI 3331
RUEHHM/AMCONSUL HO CHI MINH CITY 5198
RUCNASE/ASEAN MEMBER COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 03 HO CHI MINH CITY 000889

SIPDIS

E.O. 12958: DECL: 10/1/2018
TAGS: [PREL](#) [PGOV](#) [CMGT](#) [VM](#)
SUBJECT: TIGHTENED RESTRICTIONS ON TRAVEL BY OFFICERS AT CONGEN HCMC

REF: (A) 2007 HCMC 1064 (B) HANOI 1122

HO CHI MIN 00000889 001.2 OF 003

CLASSIFIED BY: Kenneth J. Fairfax, Consul General, U.S.
Consulate General Ho Chi Minh City, Vietnam, Department of
State.
REASON: 1.4 (b), (d)

11. (C) SUMMARY: In a series of highly unusual moves that directly violate the "rules of the road" for travel by Consulate employees established by the GVN, External Relations Office (ERO) in HCMC informed the CG that the MFA had forbidden the Consulate's PolOff from completing a planned trip to Danang on September 24 - 25 and that the ERO cannot even accept a DipNote concerning plans by the Consulate's Humanitarian Resettlement Section (HRS) chief to travel to the Central Highlands. These steps come on top of the MFA decision to deny the Consulate's HRS chief permission to travel to the Central Highlands in July. When DCM raised these issues with the Office of Government and MFA, she was told the issue is sensitive, and that there was pressure from other parts of the GVN to hold firmly to the policy that travel by Consulate officers outside of their consular district was to be done on an exceptional basis. MFA Director General for Consular Affairs Doung Chi Dung noted that the recent scrutiny was related to the "negotiating environment" for the consulate in Houston, but agreed to DCMs request to look in to the practical effect of the increased (and unclear) restrictions and continue active discussions on consulates in both countries. While these added restrictions are unwelcome, their application is still clearly the exception rather than the rule, impacting only a tiny percentage of travel by Consulate officers. END SUMMARY.

CONFUSING CANCELLATIONS

12. (SBU) On September 22, the ERO in HCMC called the Consulate to inform us that travel by PolOff to Danang that week could not take place as planned. The decision was made after MFA in Hanoi informed ERO HCMC that ConGen PolOff would not be allowed to meet with government officials or religious leaders during the trip. ERO noted that PolOff could meet with two humanitarian NGOs as planned. When asked if this prohibition also applied to the Embassy Hanoi officer who was scheduled to make the trip with ConGen PolOff, the ERO replied that the ban applied to ConGen PolOff only. On Tuesday morning, September 23, the ERO contacted the Consulate to announce that HCMC PolOff could not travel to Danang at all. When asked that this information be conveyed in formal, written format, ERO staff refused.

13. (SBU) On September 24, the ERO called the Consulate concerning planned travel to the Central Highlands by the Consulate's Humanitarian Resettlement Section (HRS) chief. The October 5 - 6 trip was planned in conjunction with the upcoming visit of PRM officer Tran Hoa. In this case, the ERO notified the Consulate that because the trip involves a visitor from

Washington, the Embassy must send the Diplomatic Note requesting permission for both the visitor and the Consulate's HRS officer to travel. The Consulate has already protested that this new policy contradicts the clearly written travel policy conveyed in MFA Diplomatic Note 035/NG-LS, which states "Consular missions located from Danang City south should send diplomatic notes to the Office of External Relations in Ho Chi Minh City." There is no mention in that note of any exceptions based upon visitors. (Note: This is the second time in recent months that travel by the Consulate's HRS chief has been denied. In the previous incident, which occurred in June, the ERO read to CG instructions from Hanoi that specifically linked the cancellation of travel by the HRS chief to GVN unhappiness over the inability to open ConGen Houston during PM Dung's visit to the USA. End Note.)

14. (SBU) CG HCMC, who was in Danang himself on Sept 22 - 23, returned to HCMC and met with ERO Director Tran Quang Dung. CG expressed his confusion and grave concern over the unexplained actions by ERO and MFA. In addition, CG reminded ERO Director Dung that the Consulate had scrupulously followed GVN rules that the Consulate must provide at least five days advanced notice along with complete details on the trip. CG went on to remind the ERO that the instructions in MFA Dip Note 035/NG-LS also stipulate that the ERO will reply in writing within five days. CG protested the fact that ERO was clearly violating the rules it established in two ways -- it waited 10 days to object to the travel and refused to provide a formal written notice. ERO Director Dung acknowledged the irregularity and apologized for the tardy communication and refusal to provide written notice. He explained that the notice from Hanoi instructing him to deny the travel only arrived on September 22. He promised that ERO would send a formal DipNote and would strive to respond in a more timely fashion in the future.

15. (SBU) When asked the reasons for the denial, Dung said that the reasons were not clear to him but that the fact that a

HO CHI MIN 00000889 002.2 OF 003

Consular officer was accompanying an Embassy officer "greatly complicated clearance procedures." When the CG asked why this would complicate the approval, Dung replied that for the past several months the MFA has consistently been asking ERO to clarify why it is necessary for a Consulate officer to take part in "an Embassy trip." He added that the request to meet with Mr. Nguyen Chi Huong, whom authorities in Danang stated is not an official minister and who "is a law breaker" was a second complicating factor. CG disputed this characterization of Pastor Huong and the DCM later raised his case directly with the CRA Director in Hanoi (ref B).

16. (C) Sensing that ERO Director Dung had a bit more to say, CG contacted him privately outside the office for a "not for attribution conversation." Dung stated that for the past several months the MFA in Hanoi has been "severely questioning" all requests for travel submitted by the Consulate. His staff, he added, has to "work hard" to gain approval for each trip. (Note: Dung's comments precisely echoed comments that ERO Deputy Director Nguyen Van Tu made to CG at a reception the previous week. End Note.) Dung said the now-routine question from Hanoi in response to DipNote notifying ERO of the Consulate's intent to travel outside of HCMC is "why is it necessary for a Consulate officer to travel outside the Consular District" (i.e. -- outside HCMC). While the HCMC ERO has generally been able to answer this question based upon information contained in the Consulate's DipNote providing notification of the trip, the situation is more complex when an Embassy officer or Washington visitor travels with a Consulate officer. In those cases, the MFA interprets the trip as "an Embassy trip on which a Consulate officer wishes to accompany," making it harder for ERO to argue that it is "necessary" for a Consulate officer to travel outside HCMC.

THE VIEW FROM HANOI

17. (C) On September 25, DCM met with Office of the Government

Director for External Relations Bui Huy Hong and discussed the recent travel denials. The DCM noted that the denials seemed inexplicable given that all of the proposed meetings took place.

The issue of which U.S. official should conduct a meeting is one for the USG to decide. The DCM concluded that it was important that we take constructive steps to improve the situation while the two sides work to broaden and deepen our consular relations. Hong replied that after Deputy Secretary Negroponte's raising of the consular district issue during his recent visit to Hanoi, the GVN had carefully reviewed the issue and had issued instructions to the relevant authorities. Hong refused to comment on the nature of these instructions, citing the sensitivity of the issue. At the same time, Hong seemed surprised to learn of the denial of the Danang trip and told the DCM he would discuss this with MFA.

18. (C) The following day, the DCM met with MFA Consular Director Dung Chi Dung for a frank discussion of the travel policy and the way forward on the consular district issue. The DCM stressed that these travel denials would make it more difficult for us to find a solution to the consular district issue and to agree to the opening of a Vietnamese consulate in Houston. She also added that since Embassy officers could travel throughout Vietnam, the decisions of ERO did not affect with whom Mission personnel would meet with or how often officers would travel. Dung responded that the issue of consular travel was very sensitive right now, and that there was pressure from other parts of the GVN to hold firmly to the policy that travel by Consulate officers outside of their consular district was to be done on an exceptional basis. (Note: This is in strict conformance with Article 6 of the Vienna Convention on Consular Relations (VCCR). End Note.) Dung added that under the VCCR consular relations should promote development and good will between the two sides. This is why it is difficult to approve travel for an officer who intends to meet with people who "oppose stability and the Government of Vietnam." He added that in the GVN's view managing visitors to Vietnam was the Embassy's responsibility and this is why support for such visitors, including diplomatic notes, must come from the Embassy. At the same time, Dung indicated that he was continuing to work on the issue of expanding HCMC's Consular District and that there might be positive developments in the future.

KEEPING IT IN PERSPECTIVE

19. (SBU) The decision by the GVN to restrict travel by Consulate officers is an unfortunate escalation in our long-running disagreement over the definition of ConGen HCMC's Consular District. While unwelcome, this escalation does not mean that Consulate officers are unable to travel. In fact, Consulate officers traveled more in FY-2008 than ever before. During FY-08, State Department officers at ConGen HCMC undertook 159 domestic trips outside HCMC, accounting for a total of 477 officer-days spent "on the road" outside what the GVN considers to be our Consular District. Even the majority of "sensitive"

HO CHI MIN 00000889 003.2 OF 003

trips are still being approved. In July, for example, the GVN approved the CG's emergency request (made without the required 5 days advanced notice) to travel to the funeral of former UBCV leader Tich Huyen Quang. Another major traveler was the Consular Section's Fraud Prevention Unit (FPU), which logged 174 officer-days outside HCMC, a record made possible partly by the greatly eased travel restrictions applying to FPU travel only that CG negotiated with ERO following an October 2007 incident in An Giang (reftel). Against this background, the total number of instances in which travel was canceled or denied is quite small.

COMMENT

10. (C) Events in HCMC and the conversations with ERO make it clear that policy on consular travel is being set in Hanoi with only limited input from HCMC officials. Our conversations with MFA and OOG also highlight that, while the GVN has not formally changed its policies for out of district consular travel, they

are choosing to take a stricter approach in enforcing those rules until a solution is found that allows them to open a consulate in Houston. At the same time, it is clear that the GVN is practicing selective enforcement of these rules. Trips that involve economic or development assistance are regularly approved, while those that touch on politically sensitive subjects face increased scrutiny and possible -- but not consistent -- denial. It also appears that joint Embassy/Consulate trips or trips with visitors from the Department are also receiving increased scrutiny, with the GVN feeling that this is a way to show they are strictly enforcing Article 6 and preventing the Consulate from assuming too large a role. It appears there is division within the GVN on the way forward, with our interlocutors sending conflicting signals by simultaneously suggesting tougher enforcement while indicating that the GVN is working on an offer that goes beyond the 9-province expansion of the consular district proposed in May.

¶11. (C) Comment Continued: Mission will continue to push for a resolution using a two-pronged approach: First, we intend to expand travel by officers from both Hanoi and HCMC to illustrate that the GVN policy will not decrease our ability to meet with the people we feel we need to see. To the extent possible, we will continue to arrange trips to address a variety of issues to demonstrate the breadth of our relations and decrease the likelihood of purely "political" trips being cancelled. Second, we need to urge the GVN to find a way to move ahead on resolving the consular district problem. This is not something that can be accomplished quickly, as it is clear that there are many players with conflicting agendas. Post believes that the best approach is to carefully work with the responsible ministries and provinces to build support for expansion.

¶12. (U) This cable was coordinated with Embassy Hanoi.
FAIRFAX